

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10

GAINESVILLE FIRE PROTECTION, LLC¹

Employer

and

Case 10-RC-15427

ROAD SPRINKLER FITTERS, LOCAL
UNION NO. 669, U.A. AFL-CIO

Petitioner

REGIONAL DIRECTOR'S DECISION
AND ORDER DISMISSING PETITION

Gainesville Fire Protection, LLC, is a Georgia corporation with its principal office and place of business located in Gainesville, Georgia. The Petitioner, Road Sprinkler Fitters, Local Union No. 669, U.A. AFL-CIO, filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a unit consisting of all “full-time and regular part-time employees engaged in the installation, maintenance and/or repair of automatic fire protection systems but excluding all supervisors as defined in the Act, designers, office clerical employees, delivery personnel, guards, professionals, and all other employees.” A hearing officer of the Board held a hearing and both parties filed a brief, which were duly considered.

The only issue herein relates to the composition of the unit. The Employer argues that four employees – Carlos Arellano, Brett Seagraves, Rogelio “Tony” Garcia and Rocco Giardina, all classified as helpers by the Employer, should be included in the bargaining unit. The Petitioner contends that only those employees who are involved in “field installation” of sprinkler systems are

¹ The name of the Employer appears as amended at the hearing.

appropriately included in the unit. The Petitioner asserts that Arellano, Garcia and Seagraves are “shop employees” and thus do not share a community of interest with the field installation employees. Further, the Petitioner contends that Giardina is an “engineer trainee” and should therefore be excluded from any unit found appropriate. The expanded unit urged by the Employer would consist of twelve employees, six installer/fitters and six helpers.

I have considered the evidence and the arguments presented by the parties on this issue. As discussed below, I have concluded that Arellino, Garcia, and Seagraves share a substantial community of interest with other employees who perform field installation work and are, thus, appropriately included in the bargaining unit. I reject, for the reasons contained in this Order, the Petitioner’s assertion that the field installation employees constitute a distinct and homogeneous group of skilled journeymen that would warrant the establishment of a bargaining unit apart from an all inclusive unit comprised of fitters/installers, helpers and shop employees. As the Petitioner has affirmatively stated that it did not wish to proceed to an election in any alternate unit found appropriate by the undersigned, I shall dismiss the Petition.²

To provide a context for my discussion of these issues, I will first provide an overview of the Employer’s operations. I will then present in detail the facts and reasoning that support each of my findings and conclusions on the unit composition issue.

I. THE EMPLOYER’S OPERATIONS

The Employer is engaged in the installation, maintenance and repair, design and sales of fire protection systems. Either through a bid process or direct solicitation of work from a general contractor, the Employer obtains a set of blueprints of the proposed job from the general contractor. From these blueprints, the Employer prepares a quote for the installation of the sprinkler system. If the Employer is awarded the project, construction blueprints are procured through the general

² Given my findings herein, it is not necessary to determine what, if any, community of interest Rocco Giardino may have with the field installation and shop employees.

contractor, and supervisor and designer Frank Thompson begins the design process with the assistance of helper Rocco Giardina.³ Thompson, who holds a National Institute of Certificate of Engineering Technologies (“NICET”) Level 3 certification, designs the fire sprinkler systems according to the drawings received from the general contractor and prepares installation blueprints and a materials list. Thompson then forwards the materials list either to the Employer’s outside suppliers or to its own shop, depending on the size of the project and the availability of materials from outside suppliers.

The Employer’s fabrication shop is located adjacent to the main office in Gainesville, Georgia and is a structure of approximately 6,000 to 8,000 square feet. If the material list is sent to its own shop, employees Arellano, Garcia and Seagraves fabricate the supply materials, including converting raw materials into finished pipe by cutting, threading, grooving, and welding the pipe. Fabrication work is also performed in the field but on a more limited basis.

After Thompson has completed the system’s design, he submits the drawings for approval to the appropriate jurisdictional fire marshal. After approval of the design, Thompson meets with the fitter/installer primarily assigned to the job to review the plans, after which the actual installation work begins on the jobsite. At the jobsite, the fitter/installer and his helper assemble the pipes and install the sprinkler system consistent with the design blueprint. Typically, the fitter/installer is actually on a ladder or lift –“in the air”- while the helper is on the ground engaged in preparation work on the pipes.

Initially, the installation employees will perform “underground work”, which refers to the process of tapping into the particular city’s underground water supply source in order to fill the system with water. A control valve is then installed, which regulates the flow of water from the city water supply into and throughout the system itself. Next, the installation employees install the fire

³ Giardina’s design assistance duties are limited to taking building dimensions off of general contractor-supplied blueprints and inputting them into a computer, a process that does not require any specialized training.

protection system's "risers." These are larger pipes that are installed vertically in the building, and feed water to the horizontal pipes contained throughout the rest of the sprinkler system. From the riser, one or more horizontal "feed mains" are installed. Feed mains are the largest pieces of pipe in the sprinkler system, and they basically "feed" water from the riser to the other, smaller pipes known as "branch lines." "Branch lines" are individual pipes installed horizontally into the main --these are the pipes that "branch out" into each room and actually supply the water to the sprinkler heads throughout the building.

Installation employees use equipment in order to install the sprinkler systems such as ladders and "scissor lifts", which elevate both the fitter /installer and the pipe up to the height at which the system is to be installed. Because the installation task involves the lifting and connecting of pieces of overhead pipe, all employees are required to wear hardhats while working at the Employer's jobsites. After the system is completely installed, it is pressurized and tested.

With the foregoing overview of the Employer's operations as backdrop, I now turn to the issue of unit composition.

II. THE COMPOSITION OF THE UNIT

Community of interest principles governs the appropriateness of a given unit. In analyzing community of interest among employee groups, the Board considers bargaining history;⁴ extent of functional integration of operations; extent of interaction and interchange among employees; similarity of skills, qualifications and work performed; extent of centralization of management and common supervision; and similarity in wages, hours, benefits and other terms and conditions of employment. In addition, it is axiomatic that the Act permits the Union to petition for an appropriate unit, and does not require it to seek the most appropriate unit, even when a different unit might be more appropriate than the petitioned-for unit. Only where the employees share such a high degree of integration of function and mutuality of interests does the Board find that only an

⁴ There is no history of collective bargaining for any of the employees at issue herein.

overall unit can be appropriate. Applying these criteria to the case, I am persuaded by the record that there exists such a high degree of integration among the Employer's hourly-employees that only an expanded unit, which would include the disputed shop employees, is appropriate.

A. Extent of Functional Integration / Contact:

The evidence demonstrates a significant degree of functional integration and frequency of contact among the disputed shop employees and other unit employees. Fabrication work performed in the Employer's shop is essential to the field function of installing fire protection systems. Moreover, the record reflects that the shop employees spend the majority of their time in the field performing installation work. Helper Brett Seagraves has worked 147 hours in the field and 133 hours in the shop, since his initial employment on November 3, 2003. Therefore, Seagraves has spent over 50% of his time in the field performing installation work.⁵ Carlos Arellano has spent 1693.5 hours in the field from his start date of February 9, 2003 until January 9, 2004. Of those hours, Arellano spent only 198 hours in the shop during this same period. Therefore, Arellano has spent almost 90% of his time in the field. Similarly, Garcia spent 826 hours in the field between his start date of June 23, 2003 and January 9, 2004, approximately 80% of his time at the Employer's various jobsites. The record is replete with evidence that the shop employees perform installation functions while out in the field. Thus, fitter/installer McCloud testified that he had observed all of the disputed employees engaged in installation work:

Brett[Seagraves], I've seen him pull in pipe, change some heads, stuff of that nature, put on couplings. Tony[Arellano] and Carlos[Garcia], I've seen them just about do everything, couplings, hangers, pull in heads, install pipe, pull in pipe, take out pipe, if we have to -- there was one job where we had to go and take out a bunch of pipe, they did that. They just about -- I've seen them do just about everything.

As demonstrated above, employees may perform different tasks at different times in the process but their work is critically related to a common project --i.e. the installation of automatic fire sprinkler

⁵ Petitioner's suggestion in its brief that the shop employees only perform fabrication work while in the field is at variance with substantial record evidence to the contrary.

systems. Therefore, I find that the petitioned-for unit is not composed of a distinct and homogeneous group of employees with a community of interests separate from those of employees Petitioner would exclude.

B. Similarity of Skills, Qualifications and Work Performed / Interchange:

Both fitter-installers and helpers install pipe. As previously noted, a fitter /installer is actually on a ladder or a lift, or “in the air” and a helper is off the ladder, or “on the ground.” However, it is apparent that those duties are interchangeable. Petitioner’s witness George Lamon testified that he and his helper, Richard Lamon, usually work the opposite way -- *i.e.*, fitter / installer George preps the pipe, and helper Richard installs the pipe. Further, the Employer’s President testified that he had personally observed the shop employees and Giardino performing installation work (*i.e.*- hanging pipes) at various jobsites.

C. Extent of Central Management and Supervision

The unit employees are subject to different supervision on a daily basis. However, Frank Thompson is the general field supervisor of all the fitter-installers and all the helpers. All helpers, including those in the shop, have the same general amount of supervision.⁶

D. Similarity in Wages and Other Terms and Condition of Employment

The record shows that there is no substantial difference in wages and other benefits among the job classifications of hourly employees other than fitters. The Employer’s three shop employees, classified as helpers by the Employer, make between \$12 and \$10 per hour, while the field helpers make between \$15 and \$12 per hour. All helpers are eligible for overtime and are typically paid on the same day. The vacation days are the same, and all of the Employer’s personnel policies apply equally to all employees. Although the normal starting and ending hours of work are slightly different in the shop than in the field, employees performing shop duties still work the same number

⁶ The field installation employees are supervised on a daily basis by the particular fitter /installer in charge of that jobsite. The record makes clear, however, that Thompson has ultimate supervisory authority over all installation jobs.

of average daily hours (8) as employees in the field. Start and stop times of jobs in the field vary from job to job. All benefits for employees are set centrally and are identical for all fitters and helpers.

III. ANALYSIS AND CONCLUSIONS

Helpers Carlos Arellano, Tony Garcia, and Brett Seagraves must be included in any voting unit deemed appropriate. As outlined above, their work is functionally integrated with that of the field installation employees, and they share a close community of interest with the sought-after employees. Thus, employees in both the field and shop share similar skill levels, fringe benefits, and general working conditions. The field and shop employees interact with each other on a recurring basis, as evidenced by the amount of time that the shop employees spend in the field performing installation work. The shop employees' job duties and functions are substantially identical to those of field installation employees, as they all work toward the common goal of producing a reliable and effective fire protection system.

Accordingly, based on the record and applicable law, I find that the Petitioner has not established that the disputed shop employees/helpers share a separate and distinct community of interest apart from the field fitters /installers and helpers. See generally, Hychem Constructors, Inc., 169 NLRB 274 (1968); Ansted Center, 326 NLRB 1208 (1998).⁷ As Petitioner has expressed its desire not to participate in an election in a unit other than that petitioned-for, I shall dismiss the petition herein.

IV. CONCLUSIONS AND FINDINGS

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

⁷ The inclusion of dual-function employees in a particular unit, arguably as the shop employees herein would be designated, does not require a showing of community of interest factors in addition to the regular performance of a substantial amount of unit work. Fleming Industries, 282 NLRB 1030 fn.1 (1987).

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction in this case.

3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer employed at various of the Employer's jobsites located in and around the State of Georgia.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The petitioned-for unit which seeks to exclude all shop employees/helpers does not constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act.

V. ORDER

IT IS HEREBY ORDERED that the petition filed herein in be, and hereby is, dismissed.

VI. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, DC, 20570.

The Board in Washington must receive this request by 5:00 P.M., (EDT) on February 24, 2004. The request may **not** be filed by facsimile.

Dated at Atlanta, Georgia, on this 10th day of February 24, 2004.

\s\ Martin M. Arlook

Martin M. Arlook, Regional Director
National Labor Relations Board
Harris Tower – Suite 1000
233 Peachtree St., N.E.
Atlanta, Georgia 30303-1531

401-7550
420-2900
420-5000